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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 CHIEF REUEL COHN,

10 Plaintiff,

11 v.

12 STATE OF WASHINGTON, *et al.*,

13 Defendants.  
14

Case No. C11-1649RSL

ORDER GRANTING IN PART STATE  
DEFENDANTS' MOTION TO DISMISS

15 This matter comes before the Court on the “State of Washington’s Motion to Dismiss”  
16 (Dkt. # 8). The State of Washington, Governor Christine Gregoire, and the Washington State  
17 Department of Fish and Wildlife (the “State Defendants”) filed the motion in response to  
18 Plaintiff’s<sup>1</sup> demand that Whidbey Island, Washington, be returned to reservation status and  
19 returned to him and his descendants as he alleges the Point Elliot Treaty of 1855 requires.

20 State Defendants argue predominately that the Eleventh Amendment bars Plaintiff from  
21 pursuing his claim against them in federal court. However, they also point out that Plaintiff is  
22 proceeding *in propria persona* – without legal counsel. He nonetheless attempts to represent both  
23 his own individual interests, Complaint (Dkt. # 4) at 2 (“return of Whidbey Island to Him and  
24 his descendants”), and those of his “Tribe,”<sup>2</sup> *id.* (“returned to reservation status”). The law  
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26 <sup>1</sup> To be clear, the Court simply adopts Plaintiff’s description of himself as “Chief.”

27 <sup>2</sup> For the sake of this Order, the Court simply assumes Plaintiff’s “Tribe” is valid.

1 precludes him from doing either.

2 Treaties are contracts between sovereigns and “do not give rise to individual actions.”  
3 See Skokomish Indian Tribe v. United States, 410 F.3d 506, 515–16 (9th Cir. 2005).  
4 Accordingly, under the facts alleged, Plaintiff lacks standing to seek enforcement of the Treaty  
5 as an individual. See id.; Golden Hill Paugussett Tribe v. Weicker, 39 F.3d 51, 55 n.1 (2d Cir.  
6 1994) (“Individual Indians do not fall within the zone of interests to be protected by the  
7 Nonintercourse Act.”). While the Tribe itself could seek to vindicate any rights allegedly  
8 guaranteed it under the Treaty in question, Plaintiff cannot himself represent the Tribe. Johns v.  
9 Cnty. of San Diego, 114 F.3d 874, 879 (9th Cir. 1997) (“[A] non-lawyer ‘has no authority to  
10 appear as an attorney for others than himself.’” (quoting C.E. Pope Equity Trust v. United States,  
11 818 F.2d 696, 697 (9th Cir. 1987))); see Local General Rule 2(g)(4)(B). He must secure counsel  
12 or convince the United States to pursue the Tribe’s interests.

13 Because Plaintiff cannot prosecute his claim without the assistance of counsel, the Court  
14 does not reach the merits of Defendants’ motion. Instead, the Court GRANTS Plaintiff 30 days  
15 from the date of this Order to secure counsel. If no notice of appearance is filed within that 30-  
16 day period, the Court will dismiss Plaintiff’s complaint without prejudice for failure to  
17 prosecute. Johns, 114 F.3d at 879 (affirming the trial court’s dismissal for failure to prosecute,  
18 but concluding that it should have dismissed without prejudice). If an appearance is filed, the  
19 Court will re-note Defendants’ motion for the following fourth Friday.

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21 DATED this 21st day of December, 2011.

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24 Robert S. Lasnik  
25 United States District Judge  
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